IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 1558 of 2007 (S/S)

1. Uttaranchal Bijli Karamachri Sangh
   18-E.C. Road, Dehradun
   through its General Secretary.
2. Sri K.R. Kashyap, S/o Ratan Lal Kashyap
   Pradhan Mahamantri Uttaranchal Bijli
   Karamchari Sangh, 18-E.C. Road,
   Dehradun.

…… Petitioners

Versus

1. State of Uttaranchal
   through Principal Secretary,
   Industrial Development Department.
2. Secretary (Energy)
   State of Uttarakhand, Dehradun.
3. Uttarakhand Power Corporation Ltd.
   through it C.M.D., Urja Bhawan,
   Kanwali, Dehradun.
4. Uttarakhand Jal Vidhyut Nigam Ltd.
   UJJAWAL, General Mahadev Singh Road,
   Dehradun.
5. Power Transmission Corporation of
   Uttarakhand Limited,
   7-B, Phase No. 1, Vasant Vihar Enclave,
   Dehradun.

…… Respondents

Mr. M.C. Pant, Advocate for the petitioners.
Mr. B.D. Upadhyaya, Advocate for respondents No. 3 & 5.
Mr. Paresh Tripathi, Brief Holder for respondents No. 1 & 2.

Hon. Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this writ petition, the petitioners have sought following reliefs:

A. Issue any other writ, order or direction in the nature of certiorari quashing the impugned order bearing No. 2635 / VII – 1 - 07/ 87 - Industry / 2001 dated 01.06.2007 and order dated 14.09.2007 passed by respondent No. 1 declaring the same as violative to law or in alternate to issue a writ, order or direction in the nature of mandamus to declare all the employees of the Corporation as the employees under the direct control, supervision and administrative control of the State Government and to allow them all benefits of Services at par to the Government employees.

B. Issue any other order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

C. Award cost of the petition.

3) Brief facts of the case are that the petitioners are the Union of the Uttaranchal Bijli Karamcharis. The employees of the Union are working under Uttarakhand Power Corporation Limited, Uttarakhand Jal Vidhyuit Nigam Limited and Power Transmission Corporation of Uttarakhand Limited. The grievance of the petitioners relates to the conditions imposed in the Government Order No. 2635 / VII – 1- 07/ 87 - Industry / 2001, dated 1st June 2007 and Government Order No. 4827 / VII –1 – 07 / 87 – Industry / 2001 dated 14th September 2007.

4) In the aforesaid Government Orders in substance what is provided is that where the expenditure is to be borne by the State Government in respect of dearness allowance or additional dearness allowance of the employees of the Public Sector Undertaking, the prior consent of the Finance Department of the Government would be necessary. The aforesaid conditions by which the petitioners are aggrieved does not suffer from any illegality, as under the Constitution of India, the State is required under Article 202 of the Constitution of India to cause statement of estimated receipts and expenditure of the State of every year before the House of Legislature of the State. It is not the case of the petitioners that the power Corporations are not looking for financial assistance to the State Government for making payment of dearness allowance and additional dearness allowance to its employees. As such, the conditions imposed by the State Government that no dearness allowance / additional dearness allowance to the employees of Public Sector Undertakings be declared by such Corporations or the Departments, without taking consent from the Finance Department of the Government. If the Corporations are permitted to declare dearness allowance / additional dearness allowance freely to its employees, for which ultimately the public exchequer is to be burdened, the State Government will not be able to follow the constitutional provisions of the law.

5) Therefore, this Court does not find any sufficient reason to interfere in the matter, and this writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed in limine. (Stay Application also stands dismissed).

(Prafulla C. Pant, J.)

Dt. October 25, 2007.
H. Negi